

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
ENTERED

MAR - 2 2005

**MARIE GORADIA AND VIJAY
GORADIA,**

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§

Michael N. Milby, Clerk of Court

Appellants,

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§
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v.

Civil Action No. H - 04 - 2929

JAMES W. O'CONNOR,

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§
§
§

Appellee.

§

MEMORANDUM AND ORDER

This adversary proceeding involves a non-debtor suing a non-debtor. The underlying dispute concerns claims by Plaintiffs-Appellants (the "Goradias") against Defendant-Appellee ("O'Connor") for torts allegedly committed by O'Connor in connection with the construction of a home for the Goradias.

The Goradias sued O'Connor in state court (the "State Court Case"). O'Connor removed the case to federal court on the basis that it was related to the Chapter 7 bankruptcy of O'Connor International, Inc. (the "Bankruptcy Case"), a corporation of which O'Connor was the principal.

The parties disagree as to whether this adversary proceeding, which is what the removed State Court Case became, is sufficiently "related to" the Bankruptcy Case under 28 U.S.C. §1334(b) to vest this Court with jurisdiction.

Although the Court doubts that federal jurisdiction has been properly invoked, it also finds and holds that the issue need not be resolved. Rather, the Court finds and holds that it should abstain from deciding this proceeding. 28 U.S.C. §1334(c)(1).

The State Court Case raises issues of state law and implicates legal and factual questions as to which the federal court has no particular expertise, and even less reason to remove from a state court of general jurisdiction. Any effect on the Bankruptcy Case would be no different whether the matter is tried in federal or state court. Neither the debtor in the Bankruptcy Case nor any other debtor is a party. Moreover, since the adversary proceeding is now almost two years old and there has been no resolution of the merits of the causes of action set forth in the State Court Case, there is no basis for suggesting that the federal court is more efficient, or possessed of a less crowded docket, than the state court.

All rulings by the bankruptcy court are VACATED and, in particular, all bankruptcy court rulings as to whether the prior arbitration addressed claims against O'Connor individually are VACATED. This case is REMANDED to the state court in which it was originally filed. Any remaining motions are DENIED AS MOOT.

IT IS SO ORDERED.

SIGNED this 1st day of March, 2005.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES THIS
ORDER SHALL FORWARD A COPY OF IT TO EVERY OTHER PARTY
AND AFFECTED NON-PARTY EVEN THOUGH THEY MAY HAVE BEEN
SENT ONE BY THE COURT.**